

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 318

An Act to amend and reenact §§ 3.2-5400, 3.2-5401, and 3.2-5405 of the Code of Virginia, relating to federal acts; meat and poultry.

[H 1353]

Approved March 12, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-5400, 3.2-5401, and 3.2-5405 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-5400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Animal food manufacturer" means any person engaged in the business of preparing animal (including poultry) food derived wholly or in part from livestock or poultry carcasses or parts or products of such carcasses.

"Broker" means any person engaged in the business of buying or selling livestock products or poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

"Capable of use as human food" shall apply to any livestock or poultry carcass, or part or product of any such carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans.

"Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

"Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040); and acts amendatory thereof or supplementary thereto.

"Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260); as amended by the Wholesale Meat Act (81 Stat. 584); the term "Federal Poultry Products Inspection Act" means the act so entitled approved August 28, 1957 (71 Stat. 441); as amended by the Wholesale Poultry Products Act (82 Stat. 791); and the term "federal acts" means these two federal laws.

"Federal acts" means the Federal Meat Inspection Act (21 U.S.C. § 601 et seq.) and the federal Poultry Products Inspection Act (21 U.S.C. § 451 et seq.).

"Immediate container" means any consumer package; or any other container in which livestock products or poultry products, not consumer packaged, are packed.

"Inspector" means an employee or official of the Commonwealth authorized by the Commissioner or any employee or official of the government of any locality authorized by the Commissioner to perform any inspection functions under this article under an agreement between the Commissioner and such governmental subdivision.

"Label" means a display of written, printed, or graphic matter upon any article or the immediate container (not including package liners) of any article.

"Labeling" means all labels and other written, printed, or graphic matter: (i) upon any article or any of its containers or wrappers; or (ii) accompanying such article.

"Livestock" means any cattle, sheep, swine, goats, horses, mules, or other equines, whether live or dead.

"Livestock product" means any carcass, part thereof, meat, or meat food product of any livestock.

"Meat food product" means any product capable of use as human food that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats. Products that contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and that are exempted from definition as a meat food product by the Commissioner under such conditions as he may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This term as applied to food products of equines shall have a comparable meaning.

"Official certificate" means any certificate prescribed by regulations of the Board for issuance by an inspector or other person performing official functions under this article.

"Official device" means any device prescribed or authorized by the Commissioner for use in applying any official mark.

"Official establishment" means any establishment as determined by the Commissioner at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this article.

"Official inspection legend" means any symbol prescribed by regulations of the Board showing that

an article was inspected and passed in accordance with this article.

"Official mark" means the official inspection legend or any other symbol prescribed by regulations of the Board to identify the status of any article or livestock or poultry under this article.

"Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meanings for purposes of this article as under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 321 *et seq.*).

"Poultry" means any domesticated bird, whether live or dead.

"Poultry product" means any poultry carcass or part thereof; or any product that is made wholly or in part from any poultry carcass or part thereof, excepting products that contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and that are exempted by the Commissioner from definition as a poultry product under such conditions as he may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

"Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

"Render" means any person engaged in the business of rendering livestock or poultry carcasses, or parts of products of such carcasses, except rendering conducted under inspection or exemption under this article.

"Shipping container" means any container used or intended for use in packaging the product packed in an immediate container.

§ 3.2-5401. Adulterated livestock product or poultry product.

Any livestock product or poultry product shall be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

2. If it bears or contains (by reason of administration of any substance to the livestock or poultry or otherwise) any added poisonous or added deleterious substance (other than one that is: (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) that may, in the judgment of the Commissioner, make such article unfit for human food;

3. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical that is unsafe within the meaning of § 408 346a of the Federal Food, Drug, and Cosmetic Act;

4. If it bears or contains any food additive that is unsafe within the meaning of § 409 348 of the Federal Food, Drug, and Cosmetic Act;

5. If it bears or contains any color additive that is unsafe within the meaning of § 706 379e of the Federal Food, Drug, and Cosmetic Act; provided, that an article that is not otherwise deemed adulterated under subsection C or D of this section shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in official establishments;

6. If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

7. If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

8. If it is, in whole or in part, the product of an animal (including poultry) that has died otherwise than by slaughter;

9. If its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;

10. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to § 409 348 of the Federal Food, Drug, and Cosmetic Act;

11. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

12. If it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

§ 3.2-5405. Powers of Commissioner.

A. The Commissioner may:

1. Order removal of inspectors from any establishment that fails to destroy condemned products as required under subdivision 2 of § 3.2-5404;

2. Order cessation of inspection service under this chapter with respect to any establishment for causes specified in § 404 671 of the Federal Meat Inspection Act or § 48 467 of the Federal federal

Poultry Products Inspection Act;

3. Order labeling and containers to be withheld from use if he determines that the labeling is false or misleading or the containers are of a misleading size or form;

4. Require that equines be slaughtered and prepared in establishments separate from establishments where other livestock are slaughtered or their products are prepared;

5. Appoint and prescribe the duties of such inspectors and other personnel as he deems necessary for the efficient execution of the provisions of this chapter;

6. Cooperate with the U.S. Department of Agriculture in administration of this chapter to effectuate the purposes stated in § 3.2-5403; accept federal assistance for that purpose and spend public funds of the Commonwealth appropriated for administration of this chapter to pay 50 percent of the estimated total cost of the cooperative program;

7. Recommend to the U.S. Department of Agriculture for appointment to the advisory committees provided for in the federal acts, such officials or employees of the Department as the Commissioner shall designate;

8. Serve as the representative of the Governor for consultation with said Secretary under ~~paragraph (e) of § 304~~ *§ 661(c)* of the Federal Meat Inspection Act and ~~paragraph (e) of § 5~~ *§ 454(c)* of the ~~Federal~~ *federal* Poultry Products Inspection Act unless the Governor selects another representative; and

9. Exempt the operations of any person from inspection or other requirements of this article if and to the extent such operations would be exempt from the corresponding requirements under the ~~Federal Meat Inspection Act or the Federal Poultry Products Inspection Act~~ *federal acts* if they were conducted in or for interstate commerce or if the Commonwealth was designated under the federal acts as one in which the federal requirements apply to intrastate commerce.

B. Any order issued under subdivisions 1, 2, or 3 of subsection A shall be final unless appealed in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).